UNIVERSITY OF
TORONTO
FACULTY OF LAW

BORA LASKIN LAW LIBRARY
3 1761 06108646 8

CRIMINAL LAW THEORY

Alan Brudner

FACULTY OF LAW
UNIVERSITY OF TORONTO

These materials are reproduced solely for the use of students
in the Faculty of Law, University of Toronto

2008

BORA LASKIN LAW LIBRARY

AUG 29 2008

FACULTY OF LAW
UNIVERSITY OF TORONTO

CRIMINAL LAW THEORY

Alan Brudner

FACULTY OF LAW
UNIVERSITY OF TORONTO

These materials are reproduced solely for the use of students
in the Faculty of Law, University of Toronto

2008

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/criminallawtheor00brud_5

CRIMINAL LAW THEORY

I Punishment

Jean Hampton, An Expressive Theory of Retribution..... 1
Russ Shafer Landau, The Failure of Retribution.....26
Mark Thornton, Against Retributivism.....37
Alan Brudner, In Defence of Retributivism.....46
H.L.A. Hart, Prolegomenon to the Principles of Punishment.....53

II Culpable Mind

1. Why Mens Rea?

Michael Bayles, Character, Purpose and Criminal Responsibility.....67
Michael Moore, Choice, Character, and Excuse.....76
H.L.A. Hart, Punishment, and the Elimination of Responsibility.....92
Jean Hampton, Mens Rea.....106

2. What Mens Rea?

H.L.A. Hart, Negligence, Mens Rea, and Criminal Responsibility.....121
Antony Duff, Recklessness.....133
Jeremy Horder, Gross Negligence and Criminal Culpability.....154
Arthur Ripstein, Mistakes.....168

III Wrongful Act

1. Normative Justification

Michael Moore, Act and Crime.....185
Douglas Husak, Does Criminal Liability Require an Act?..... 198

2. Omissions

George Fletcher, Rethinking Criminal Law.....214
Joel Feinberg, Harm to Others.....240

IV Results

1. Should Consequences Matter?

Andrew Ashworth, Sharpening the Subjective Element in Criminal Liability 271
Bruce Chapman, Agency and Contingency: The Case of Criminal Attempts.....277

2. Responsibility for Outcomes

H.L.A. Hart, Punishment and Responsibility 289
Itzhak Kugler, Direct and Oblique Intention on the Criminal Law 301
Alan Brudner, Proportionality, Stigma, and Discretion.....309

V Mental Disorder

Antony Duff, Mental Disorder and Criminal Responsibility.....319
Alan Brudner, Insane Automatism: A Proposal for Reform.....328

VI Justification

Paul Robinson, Deeds and Reasons 347
George Fletcher, The Nature of Justification.....361
Alan Brudner, A Theory of Necessity 368
Jeremy Horder, Self-Defence, Necessity, and Duress 384

VII Excuse and Mitigation

Immanuel Kant, The Right of Necessity.....407
John Gardner, The Gist of Excuses.....408
Jeremy Horder, Provocation and Responsibility, Chapter 8 432
Dennis Klimchuk, Outrage, Self-Control, and Culpability.....447
Douglas Husak, Partial Defences.....461

VIII Strict Liability

Larry Alexander, Reconsidering the Relationship, etc. 487
Alan Brudner, Imprisonment and Strict Liability 499